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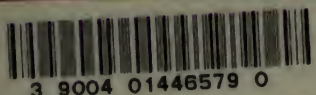

The EDITH *and* LORNE PIERCE
COLLECTION *of* CANADIANA

Queen's University at Kingston

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PRINCE EDWARD ISLAND

MILITIA LAW.

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MILITIA LAW.

ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

CAP. II.

An Act for the regulation of the Militia and Volunteer Forces.

(Passed May 11, 1866.)

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

I. The Lieutenant Governor of this Island shall, by virtue of his office, be Commander-in-Chief of the Militia.

Commander-in-Chief.

II. The Militia shall consist of all the male Inhabitants of the Island, of the age of sixteen years and upwards, and under sixty—not exempted or disqualified by law.

What the Militia shall consist of.

III. The following shall be exempt from service in the Militia, in any case : Clergymen, Judges of the Supreme Court, the Master of the Rolls and the Professors of any College or University recognized by Law. And the following persons, although enrolled, shall be exempt from attending muster, and from actual muster, at any time, except in case of War, Invasion or Insurrection, namely : The Sedentary Militia, Members of the Executive and Legislative Councils, and of the House o Assembly ; Colonial Secretary and Assistant Secretary ; all Civil Officers appointed to any Civil Office in this Island, under the Great Seal ; All persons lawfully authorised to practice Physic or Surgery ; Half-pay and retired Officers of Her Majesty's Army and Navy ; Schoolmasters, employed as such ; Telegraph Operators, Postmasters and Mails Carriers, Ferrymen ; One Miller for every run of stones in every Grist Mill ; All persons disabled by bodily infirmity, and whenever exemption is claimed, the burden of proof shall always be upon the claimant.

Persons absolutely exempt from service.

Persons exempt except in case of war or invasion.

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Exempts may serve.

IV. Nothing, however, shall prevent any man exempted by Law from serving in the Militia should he desire it.

Active and Sedentary Militia.

V. The Militia shall be divided into two classes, namely, Active Militia and Sedentary Militia.

Two classes of Active Militia.

VI. The Active Militia shall be subdivided into two classes, namely, Volunteer Militia and Regular Militia.

Counties to be divided into Regimental Districts,

VII. For purposes of enrolment and organization, each county shall be divided into as many Regimental Districts as may be decided upon by the Commander-in-Chief, and each such District shall be again divided into Company Districts. Each Regimental District to furnish one Militia Regiment; each Company District to furnish one Regular and one Sedentary Company of Militia.

Regiments and Companies to be numbered.

VIII. All Regiments shall be numbered; likewise, all Companies in such Regiments. The Regular and the Sedentary Company in each Company District to bear the same number.

Regimental & Company Districts may be altered, &c.

IX. The Commander-in-Chief may, from time to time, by any Militia General Order, alter such Regimental or Company District, or may divide any Regiment into as many Battalions as he may deem proper, and may disband and re-organize the Militia in any district.

Militia Districts, &c., to remain in force until altered.

X. All Militia Districts and Divisions existing before the passing of this Act shall remain in force until altered under the provisions of this Act; and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority, under this Act, and for the purposes thereof.

OFFICERS.

Officer's Commissions how granted.

XI. All Commissions of Officers in the Militia shall be granted by the Commander-in-Chief, and during pleasure.

Non-commissioned Officers how appointed.

XII. All non-commissioned Officers shall be appointed by Officers commanding their respective Battalions or Regiments.

Officers to be subjects of the Queen.

XIII. No person shall be an Officer of Militia, unless he is one of Her Majesty's subjects, by birth or naturalization.

Commissions & appointments to remain in force until cancelled.

XIV. Commissions in the Militia and Volunteers, and appointments of non-commissioned Officers, existing before the passing of this Act, shall remain in force—such Commissions being subject to be cancelled by the Commander-in-Chief, and such appointments by the Officer commanding the Regiment or Battalion.

XV. No Officer of Militia or Volunteers shall assume command of forces composed of Imperial and Militia Troops, without the order or consent of the General or other Officer in command of the Imperial Troops.

Command of Inperial and Militia Troops.

XVI. The Executive command, in time of war, of the Militia and Volunteers, is hereby vested in the Officer commanding Her Majesty's Imperial Forces in this Island.

Command of Militia & Volunteers in time of war.

XVII. Provided always, that all such Officers of Volunteer force appointed before the passing of this Act shall take rank and precedence in the Militia, according to the date to their commissions as Volunteer Officers.

Rank and Precedence of Volunteer officer.

XVIII. The Commander-in-Chief shall, within such time after the passing of this Act as he shall deem fit, appoint a Board of three competent Officers to examine all Officers whose commissions are hereby continued; and may transfer any Officer failing to pass such examination, to the Sedentary Force, or place him on on a retired list, with or without a step of honorary rank.

Board of Examiners.

XIX. After the passing of this Act, no Officer shall be appointed to, nor promoted to, the active Force, until he shall have passed an examination as to his efficiency, before a Board of three Officers, consisting of a President and two other Officers, to be appointed by the Commander-in-Chief.

Officers how appointed and promoted.

XX. Provided that the Commander-in-Chief may establish Schools for military instruction, and direct that a certificate from the commandant of such Schools shall be substituted for a certificate of such Boards of Examination.

Schools of Military Instruction, &c.

XXI. Promotion shall go by seniority, but if the senior shall not be able to qualify, the step to be given to the next in seniority, who is able to obtain a certificate of such Commandant or Board; and the Officer unable to qualify shall be placed on the retired list. Provided that the Commander-in-Chief may promote any Officer or marked capacity, and, in cases of emergency, may dispense with examination.

Promotions how regulated.

XXII. The Commander-in-Chief shall have full power to appoint a staff of commissioned and non commissioned Officers of the active Militia, with such Rank, as he shall, from time to time, think requisite or necessary for the efficiency of the Militia Service; and any such Staff Officers shall have such Rank and authority in the Militia, as are held, relatively, in Her Majesty's service.

A staff of commissioned and non-commissioned officers.

Fees for Commissions.

XXIII. For every Commission in the Militia, issued after the passing of this Act, there shall be paid to the Adjutant General of Militia, the following fees :

Ensign, Cornet or Second Lieutenant, Five shillings.

Lieutenant, Seven shillings and Six pence.

Captain, Ten shillings.

Major, Fifteen shillings.

Lieutenant-Colonel, Twenty shillings.

Colonel, Twenty-five shillings.

Appropriation thereof.

And all moneys, so received for commissions, shall be appropriated for the contingent expenses of the Adjutant General's Office.

Volunteer Militia.

XXIV. The Volunteer Militia shall consist of Volunteer Troops of Cavalry, Troops and Batteries of Artillery, and Battalions of Infantry.

Volunteer Corps, services of, may be continued, &c.

XXV. The Commander-in-Chief may continue the services of all Volunteer Corps accepted before the passing of this Act ; and may also, if he see fit, accept the services of any Corps of Volunteers, who may be formed, after the passing hereof, under such regulations as have been or may be approved by the Commander-in-Chief, in regard to such Corps.

Re-enrolment of Volunteers.

XXVI. Within two months after the passing of this Act, all Volunteer Companies shall be mustered by their Captains, the provisions of this Act clearly explained to them ; and they shall take the Oath of Allegiance, and be re-enrolled as Volunteer Militia, when each man shall sign a Muster Roll.

Volunteers before re-enrolment, mode of quitting their Corps.

XXVII. Provided that any Volunteer, who shall have been duly enrolled as such before the passing of this Act, may, previous to, or at the time of such muster, give the notice required by the Act of the Twenty-fourth year of the Reign of Queen Victoria, chapter eleven, hereby repealed, and quit his corps, after having complied with all the regulations which are specified in the twelfth clause of the said Act.

Volunteers, after re-enrolment—mode of retirement.

XXVIII. No member of a Volunteer Militia Company, re-enrolled under this Act, shall be permitted to retire from his Company, without giving three months' notice of his intention to the Officer commanding the Company to which he belongs.

Oath of Allegiance.

XXIX. Every person enrolled in the Volunteer Militia shall take the Oath of Allegiance to Her Majesty.

Volunteers to be governed by general orders.

XXX. The establishment of Volunteer Companies, and their administrative organization, shall be regulated by such

general orders as have been, or shall be, from time to time, promulgated by the Commander-in-Chief.

XXXI. The Commanding Officers of Companies shall be responsible that their Companies are kept up to their full strength, as required by such Regulations ; and in the event of the failure of any Company, as aforesaid, to maintain the complement of men, so required, or, in the event of any Company becoming inefficient, the Commander-in-Chief may disband any such Corps, so incomplete or inefficient ; and the Commander-in-Chief may disband any Regiment, Battalion, or Company, if, in his opinion, necessary for the public good.

Commanding Officers responsible that their Companies are kept up to full strength.

Power of Commander-in-Chief to disband.

XXXII. The Commander-in-Chief may, from time to time, prescribe the qualifications of effective members of Volunteer Militia, provided that such qualification shall include that each Volunteer, to be effective, shall have attended Drill, duly armed and accoutred, not less than sixteen times during the year—such Drills not to be less than one and one-half hour, shall have taken the Oath of Allegiance, and have been inspected in Uniform at such time as may have been ordered, under the authority of the Commander-in-Chief.

Qualifications of effective members of Militia.

XXXIII. The Commander-in-Chief may, from time to time, prescribe the Uniform of the Volunteer Militia, provided that the several Corps in existence at the passing of this Act may continue to wear their then clothing, until the same requires to be replaced ; and it shall be the duty of the Officer commanding the administrative Regiments or Battalions to see that the same are, upon any such replacing of clothing, uniformed according to the orders of the Commander-in-Chief, in such respects.

Uniforms of Volunteer Militia.

XXXIV. It shall be lawful for the Commander-in-Chief to grant an allowance, not exceeding one pound a year, to each effective Volunteer Militiaman so uniformed at his own expense.

Allowance to Volunteer Militia.

XXXV. In case a sufficiency of arms shall not be provided for the whole of the Militia, the Volunteer Militia shall be provided with arms and accoutrements before the Regular and Sedentary Militia.

Volunteer Militia to be provided with arms and accoutrements before Regular Militia.

XXXVI. The Volunteer Militia shall, for purposes of drill, be furnished with a sufficient quantity of blank and ball practice ammunition, in such quantity and manner as the Commander-in-Chief may direct.

Ammunition for drill.

XXXVII. Companies of Volunteer Militia may make by-laws for their internal government in time of peace, and may impose fines for the breach of any by-laws ; but no such by-laws shall subject any person to a fine until approved by the Commander-in-Chief.

Power to make By-laws.

Fines and dues how sued for.

XXXVIII. Fines imposed under any by-law, and dues and liabilities incurred by any Volunteer Militiaman may be sued for in the name of the officer commanding the company, as a private debt, before one or more Justices of the Peace, and the amount may be levied, with costs, by distress; and for want of goods and chattels the offender shall be committed to Jail for a period of twelve hours for every five shillings of the fine and forfeiture.

THE REGULAR MILITIA.

The Regular Militia.

XXXIX. The Regular Militia shall consist of all males from sixteen to forty-five years of age, not exempt by Law, and not returned as effective members of Volunteer Militia by the officers commanding companies, in returns forwarded at such times as appointed by the Commander-in-Chief.

Persons eligible for service in the Regular Militia.

XL. All males, of the prescribed age, shall be accounted eligible for service in the Regular Militia until they shall have proved the contrary to the Captain of their respective districts.

Mode of enrolling in the Regular Militia.

XLI. Within three months after the passing of this Act, Officers commanding Regimental Districts shall cause the Captains of Company Districts to enrol every man in their respective Districts. The Captains of Regular Militia Companies shall further muster their Campanies, read to them the provisions of this Act, cause each man to take the Oath of Allegiance to Her Hajesty, and forward authenticated copies of their Muster Rolls to the Officer commanding their respective Regiments.

Muster Rolls.

XLII. The officers commanding Regiments shall forward authenticated Muster Rolls of their Regiments to the Commander-in-Chief at such times as he may direct.

Militiamen to give notice of removal from one Company District to that of another under a penalty of £2.

XLIII. After the first enrolment of the Regular Militia under this Act, any Militiaman, who shall move from the limits of one company district into that of another, shall give notice thereof in writing to the Captains of both districts, within one month after such removal; and any man neglecting to give due notice of such removal shall be liable to a fine of two pounds.

Every man liable to enrolment to give in his name to the Captain under a penalty of £2.

XLIV. Every man after such first enrolment, liable to be enrolled under this Act in the Regular Militia, shall give in his name to the Captains commanding their respective companies within one month after he becomes so liable, and any man neglecting to give such notice shall be liable to a fine not exceeding two pounds.

XLV. The Commander-in-Chief may make orders for the disciplining of the Regular Militia, prescribing the number of days for drill, not to exceed ten days in the year, and the mode and time of assembling each Regiment.

Orders relative to discipline, &c.

XLVI. Nothing herein contained shall prevent Officers, Non-Commissioned Officers, or Members of Volunteer Militia from holding commissions as Officers, or appointments as Non-Commissioned Officers in the Regular Militia; but in case of both classes being called out for actual service the Commander-in-Chief may decide with which class such persons shall be employed.

Commissions & appointments may be held by Volunteer Militia officers and non-commissioned officers in Regular Militia.

SEDENTARY MILITIA.

XLVII. The Sedentary Militia shall consist of all males in the Island of the age of forty-five years, and under the age of sixty years, not exempted or disqualified by Law nor enrolled in the Active Militia.

Sedentary Militia.

XLVIII. The Sedentary Militia shall be carefully enrolled, from time to time, in each company division, by the Captain thereof, who shall also transmit certified copies of the Roll to the officer commanding the Regiment at such times as shall be directed by the Commander-in-Chief.

Sedentary Militia how enrolled.

XLIX. All provisions of this Act for enrolment of Regular Militia shall also be applicable to Sedentary Militia.

Provisions relative to enrolment of Sedentary Militia.

GENERAL PROVISIONS.

L. The Commander-in-Chief may call out the Militia, or any part thereof, whenever, in his opinion, it is advisable so to do, by reason of war, invasion, civil commotion or imminent danger, or any of them; and in any such case the Volunteer Force shall first take the field, then the Regular Force, and lastly the Sedentary Militia.

Militia when and how to be called out.

LI. The Officer commanding any Regiment may, upon any sudden emergency of invasion, civil commotion or imminent danger, or either, call out the whole or any part of the Militia, under his command, until the pleasure of the Commander-in-Chief is made known.

The officer commanding any Regiment may call out same in certain cases.

LII. Militia, when called out by competent authority for actual service, shall, in addition to the penalties imposed by this Act, be subject to the Articles of War, and to the Act of the Imperial Parliament, for punishing Mutiny and Desertion, and to all other Laws applicable to Her Majesty's troops in this Island, except that no Militiaman shall be subject to any corporal punishment, except death or imprisonment, for any contravention of such Laws, and except also that the Commander-

Militia when called out to be liable to articles of War, and the Act for punishing Mutiny and Desertion, &c.

in-Chief may direct that any provisions of the said Laws shall not apply to the Militia.

Militia not compelled to leave the Island.

LIII. The Militia shall not be compelled to leave this Island, but the Commander-in-Chief may accept the voluntary service of any of the Militia for service beyond this Island.

Duties to be regulated by Roster.

LIV. All duties of Militia when called out for actual service, or for training, shall, (except in cases of emergency), be regulated by Roster.

Her Majesty's Regulations, &c.

LV. All duties, parades, drills, target practice, &c., shall, so far as local circumstances will permit, be conducted in conformity with Her Majesty's regulations and Field Exercises for the army.

Notice of musters.

LVI. Every man shall receive at least two days notice of the musters and training at which he shall be required to attend under the authority of this Act, such notice to be given to him in person, by any commissioned or non-commissioned Officer or private, having the written orders of his Captain; or if he cannot be found, to be left at his abode; but in the latter case, if the man shall not receive the notice he may prove his ignorance.

Muster day how changed.

LVII. The commanding Officer at any muster may name another day for re-assembling, and his orders thus given shall be a notice to every man who shall have been notified of the first day of meeting.

Militia pay.

LVIII. When called out for actual service, or for training, for more than ten days in each year, the Militia shall receive such pay from the Government and allowances as are paid or allowed to the corresponding ranks of Her Majesty's service.

Wounded or disabled Volunteers or Militia how provided for.

LIX. If any Volunteer or Militiaman be wounded or disabled when on actual service, he shall be provided for at the expense of the colony during his disability.

Wives and families of officers and men when and how provided for.

LX. In case of the loss of any officer or man while on actual service within this Island, provision shall be made for his wife and family out of the Public Revenue, the said provision to be estimated and fixed by the Lieutenant Governor in Council.

Militia to march from any one part of the Island to the other.

LXI. It shall be lawful for the Commander-in-Chief to order Militia, called out for actual service, to march from any one part of the Island to any other, and to billet or encamp them as he shall see fit.

Regulations for marching and billeting Militia.

LXII. All marching, billeting and encamping of Militia shall be conducted in accordance with Her Majesty's Regulations for the Army.

LXIII. The Commander-in-Chief may cause Drill Sheds to be erected at Charlottetown, Georgetown and Summerside. Drill sheds.

LXIV. The Commander-in-Chief shall have power, by General Orders to be issued under his authority, to make such regulations as he may deem necessary on any subject connected with the Militia, provided that such regulations are not inconsistent with this Act. General Orders effect of.

ARMS, &c.

LXV. The Commander-in-Chief may cause arms and accoutrements to be issued under such Regulations as he may, from time to time, deem necessary, subject to the Thirty-fifth clause of this Act, and may prescribe such precautionary measures as he deems expedient for the safe-keeping and in good order of such arms and accoutrements, and for the re-delivery thereof to such officer as may be appointed to receive them whenever the Commander-in-Chief, for any purpose, directs such re-delivery. Regulations relative to the issuing and keeping of arms and accoutrements.

COURTS OF ENQUIRY.

LXVI. The Commander-in-Chief shall, whenever he deems it necessary, order a Court of Enquiry to assemble for the investigation of any subject affecting officers, non-commissioned officers and militiamen. Court of Enquiry.

LXVII. This Court shall be composed of Officers of the Militia within this Island, but these Officers shall not be of the same company to which any member whose case may be under enquiry belongs. Composition of Court of Enquiry.

LXVIII. A Court of Enquiry shall not proceed to any finding except in such cases as the Commander-in-Chief may designate; and such finding, if approved by the Commander-in-Chief, shall be final. Jurisdiction of Court of Enquiry.

PENALTIES, &c.

LXIX. All contraventions of this Act, and of Regulations made or given under it, when the Militia is not called out for actual service, shall be punishable as hereinafter provided. Penalties.

LXX. Any Militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the Roll of any Company, when demanded by the Officer commanding, or under his authority, at any seasonable hour and place, shall incur a penalty not exceeding two pounds for each offence. Penalty for neglecting to give notice relative to making up Company Roll.

LXXI. Any Militia Officer, non-commissioned Officer or man, not exempted by this Act, who neglects or refuses to Penalty for neglecting to attend Muster or

refusing to obey orders.

attend Muster or Training at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster or training, shall thereby incur a penalty of not more for each offence than two pounds; and in case of training, absence for each day shall be held to be a separate offence.

Penalty for interrupting Drill, &c.

LXXII. Any person who interrupts or hinders any Militia at drill, or trespasses on the bounds set out by the proper Officer for such drill, shall thereby incur a penalty of thirty shillings for each offence, and may be taken into custody and detained by any person, by the order of the Commanding Officer, until such drill shall be over for the day.

Penalty for disobeying orders &c.

LXXIII. Any Officer, non-commissioned Officer or Militiaman disobeying any lawful order of his Superior Officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty not exceeding two pounds for each offence.

Penalty for unlawfully disposing of arms, &c.

LXXIV. Any person who unlawfully disposes of or removes any Arms, Accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him,) shall thereby incur a penalty of five pounds for each offence; but this shall not prevent any such offender from being indicted and punished for any greater offence, if the facts amount to such, instead of being subjected to the penalty aforesaid and any person charged with any act subjecting him to the penalty imposed by this section, may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit showing that there is reason to believe that such person is about to leave the Island, carrying any such arms, accoutrements or articles with him.

General penalty for illegal Acts not otherwise provided for.

LXXV. Any person who wilfully contravenes any enactment of this Act, when no other penalty is imposed for such contravention, shall thereby incur a penalty not exceeding two pounds for each offence; but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such.

RECOVERING OF PENALTIES AND POWER TO COMMIT TO JAIL FOR NON PAYMENT OF PENALTY.

Penalties, who to prosecute for.

LXXVI. No prosecution against an Officer of Militia for any penalty under this Act shall be brought, except on the complaint of the Adjutant General; and no such prosecution against any non-commissioned officer or private shall be brought except on the complaint of the Commanding Officer or

Adjutant of the Regiment to which such non-commissioned officer or private belongs.

LXXVII. No such prosecution shall be commenced after the expiration of three months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms or accoutrements delivered to the Militia. Time of prosecution.

LXXVIII. All penalties incurred under this Act, or any regulations, orders or articles of engagement lawfully made or entered into under it, when no other mode is herein prescribed for the recovery thereof, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace, if the amount do not exceed one pound, and before two Justices of the Peace if the amount exceeds that sum. Jurisdiction of Justices of the Peace relative to the recovery of Penalties.

LXXIX. All penalties imposed by this Act, when recovered, shall be paid over to the Treasurer of this Island for the use of the Government. Appropriation of Penalties.

LXXX. An Act made and passed in the twentieth year of the Reign of His late Majesty King George the Third, chapter one, intituled: "An Act for the establishing and regulating a Militia." An Act made and passed in the third year of the reign of His late Majesty King William the Fourth, chapter thirty, intituled: "An Act for repealing certain parts of an Act intituled 'An Act for the establishing and regulating a Militia and for substituting other provisions in lieu thereof.'" An Act made and passed in the ninth year of Her present Majesty Queen Victoria, chapter six, intituled: "An Act to render the Militia more efficient and to repeal certain parts of an Act therein mentioned." An Act made and passed in the fourteenth year of the reign of Her present Majesty Queen Victoria, chapter fourteen, intituled: "An Act to alter and amend the Laws now in force relating to the Militia." An Act made and passed in the twenty-fourth year of the reign of Her present Majesty Queen Victoria, chapter eleven, intituled: "An Act to provide for the organization of a Volunteer Force for the defence of this Island." An Act made and passed in the twenty-fifth year of the reign of Her present Majesty Queen Victoria, chapter one, intituled: "An Act to amend the Act to provide for the organization of a Volunteer Force for the defence of this Island;" and an Act made and passed in the twenty-eighth year of the reign of Her present Majesty Queen Victoria, chapter twelve, intituled: "An Act to repeal the Act intituled 'An Act to alter and amend the Law now in force relating to the Militia and to revive certain Acts therein mentioned,'" shall be and the same are all hereby repealed. Act repealed.